

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LATANYA HARRIS and MARK BIBB,

Plaintiffs,

v.

HUAWEI TECHNOLOGIES USA, INC.
and PAN YAO,

Defendants.

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Case No. 4:16-CV-913

**MEMORANDUM OPINION AND ORDER GRANTING PLAINTIFFS’
MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Pending before the court is the Plaintiffs’ “Motion for Leave to File Amended Complaint” (docket entry #16) filed on January 26, 2017. In the Plaintiffs’ certificate of conference, the Plaintiffs indicate that the Defendants oppose the Plaintiffs’ motion for leave to amend their complaint. As of this date, however, the Defendants have not filed a response in opposition to the Plaintiffs’ motion.

In their motion, the Plaintiffs seek leave of court to amend their original complaint pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. In their first amended complaint, the Plaintiffs propose to (1) add a class action, and (2) delete all references to Title VII violations.

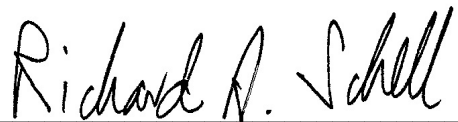
Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure provides that “[a] party may amend its pleading once as a matter of course within: (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” FED. R. CIV. P. 15(a)(1)(B). Since the Plaintiffs are moving to amend their complaint within 21 days after service of the Defendants’

original answer (filed on January 18, 2017), the Defendants' motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (filed on January 18, 2017), and the Defendants' motion to strike pursuant to Rule 12(f) of the Federal Rules of Civil Procedure (filed on January 18, 2017), the Plaintiffs are entitled to amend their complaint once as a matter of course without first seeking leave of court. Accordingly, the court hereby **GRANTS** the Plaintiffs' "Motion for Leave to File Amended Complaint" (docket entry #16). Further, since the Defendants' "Rule 12(b)(6) Motion to Dismiss and Brief in Support" (docket entry #11) and "Rule 12(f) Motion to Strike and Brief in Support" (docket entry #12) apply to the Plaintiffs' original complaint, the motions are hereby **DENIED AS MOOT**.

Finally, as noted above, the Plaintiffs' amended complaint adds a class action. Accordingly, the undersigned senior judge hereby recuses himself with regard to the above-entitled and numbered civil action.

IT IS SO ORDERED.

SIGNED this the 15th day of March, 2017.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE